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The Vermont Agency of Natural Resources and the Vermont Department of Environmental Conservation have provided technical and legal support to the Attorney General's Office in all aspects of bringing the lawsuits.

**Related Documents:**

[State v. 3M et al. COMPLAINT \(PFAS claims\). 6/26/19](#)

[State v. 3M et al. COMPLAINT \(AFFF claims\). 6/26/19](#)

###

## McDougall, Robert

---

**From:** Jen Duggan <jduggan@clf.org>  
**Sent:** Thursday, June 27, 2019 10:46 AM  
**To:** McDougall, Robert  
**Subject:** RE: Press Release: Vermont Files Suit Against Manufacturers of PFAS Chemicals to Protect Drinking Water and Natural Resources

Thank you!

Best,

Jen

**Jen Duggan**  
Vice President and Director, CLF Vermont  
Conservation Law Foundation

15 East State Street, Suite 4  
Montpelier, VT 05602

P: 802-622-3010  
E: [jduggan@clf.org](mailto:jduggan@clf.org)



**From:** McDougall, Robert <robert.mcdougall@vermont.gov>  
**Sent:** Thursday, June 27, 2019 10:42 AM  
**To:** Jen Duggan <jduggan@clf.org>  
**Subject:** Fwd: Press Release: Vermont Files Suit Against Manufacturers of PFAS Chemicals to Protect Drinking Water and Natural Resources

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**From:** Clark, Charity  
**Sent:** Thursday, June 27, 2019 10:31:18 AM  
**To:** [agopress@list.vermont.gov](mailto:agopress@list.vermont.gov)  
**Subject:** Press Release: Vermont Files Suit Against Manufacturers of PFAS Chemicals to Protect Drinking Water and Natural Resources

**STATE OF VERMONT  
OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET**

**MONTPELIER, VT 05609-1001**

FOR IMMEDIATE RELEASE:  
June 27, 2019

CONTACT: Rob McDougall, Chief  
Environmental Division  
(802) 828-3171

**VERMONT FILES SUIT AGAINST MANUFACTURERS OF PFAS CHEMICALS  
TO PROTECT DRINKING WATER AND NATURAL RESOURCES**

MONTPELIER – Vermont Attorney General T.J. Donovan announced that the State of Vermont has taken a major environmental action to protect Vermont’s drinking water and natural resources by filing two lawsuits against companies for the manufacturing and distribution of PFAS chemicals and PFAS-containing products in Vermont. The lawsuits name the 3M Company (3M) and E. I. du Pont de Nemours and Company (DuPont) and related DuPont companies as the major chemical makers who manufactured and distributed PFAS chemicals and related products.

“This is about making Vermont whole, by making the responsible parties pay to remove their toxic chemicals from Vermont’s groundwater and other resources,” said Attorney General Donovan. “These lawsuits are against the companies that invented, made, and sold PFAS chemicals and related products. For decades, they knew these chemicals were harmful and gave no notice to the public. We’re taking this action to protect Vermonters and our environment by holding these companies responsible for the environmental harms they caused.”

“I appreciate all of the work the Agency of Natural Resources has put into this effort in cooperation with the Attorney General’s office,” said Governor Scott. “As we begin to implement Act 21 (S.49), we expect to find concentrations of PFAS requiring additional response work. I believe the manufacturers of these chemicals – who continued to profit from their sale long after knowing the potential harm – should be held financially responsible for their negative impact on Vermonters,” Governor Scott added.

The State filed two lawsuits in the Vermont Superior Court, Chittenden Civil Division on Wednesday. The lawsuits seek damages for state-wide harm to Vermont’s drinking water and natural resources, including groundwater, surface waters, and wildlife. 3M and DuPont are the primary manufacturers of PFAS chemicals, a family of chemicals which includes PFOS, PFNA, PFHxS, PFHpA and PFOA, the chemical that has been the

contaminant of concern in Bennington since 2016. One of the lawsuits specifically focuses on harms caused by PFAS-containing AFFF, a firefighting foam. The harmful health effects of PFAS include links to kidney and testicular cancer, ulcerative colitis, and adverse effects on fetal development during pregnancy, the liver, the immune system, the thyroid, and cholesterol levels.

On behalf of the Bennington Legislative Delegation, Bennington Senators Richard Sears and Brian Champion issued the following statement in support of the State's lawsuits:

“We applaud the filing of these lawsuits by the State. The creators of these chemicals have caused tremendous destruction to the environment world-wide and must be held accountable for what they have done. PFAS chemicals persist indefinitely in the environment, they are known toxicants and associated with multiple types of cancers. The residents of Bennington County have experienced first-hand the devastating impacts of such contamination. We've watched what happens when PFOA harms Vermonters' health and property and we would not wish any community to experience what our community has experienced. This next phase, which the Attorney General has started, gives us hope that those who have created this nightmare will be made to be answerable. We thank the Governor, the Attorney General, the Agency of Natural Resources, and all of their teams, for taking this step to protect Vermont's people and environment.”

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###

Charity R. Clark  
Chief of Staff  
Office of the Attorney General  
109 State St.  
Montpelier, Vermont 05609  
802-828-3737

## McDougall, Robert

---

**From:** McDougall, Robert  
**Sent:** Thursday, June 27, 2019 1:52 PM  
**To:** Richard Sears; [campionvt@gmail.com](mailto:campionvt@gmail.com)  
**Subject:** FW: Press Release: Vermont Files Suit Against Manufacturers of PFAS Chemicals to Protect Drinking Water and Natural Resources  
**Attachments:** PFAS Press Release 6.27.19.pdf; ATTO0001.htm

Hello Senators: Forwarding the press release from today's announcement. I read your statement at the Press Conference as well. Thank you for your support on these matters.

Rob

Robert F. McDougall  
Assistant Attorney General  
Chief, Environmental Protection Division  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609  
(802) 828-3186  
[robert.mcdougall@vermont.gov](mailto:robert.mcdougall@vermont.gov)

 Please consider the environment before printing this e-mail

**From:** Clark, Charity <[Charity.Clark@vermont.gov](mailto:Charity.Clark@vermont.gov)>  
**Sent:** Thursday, June 27, 2019 10:31 AM  
**To:** [agopress@list.vermont.gov](mailto:agopress@list.vermont.gov)  
**Subject:** Press Release: Vermont Files Suit Against Manufacturers of PFAS Chemicals to Protect Drinking Water and Natural Resources

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OFFICE OF THE ATTORNEY GENERAL  
109 STATE STREET  
MONTPELIER, VT 05609-1001**

FOR IMMEDIATE RELEASE:  
June 27, 2019

CONTACT: Rob McDougall, Chief  
Environmental Division  
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802-828-3737

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## McDougall, Robert

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**From:** Emily J. Joselson <EJoselson@langrock.com>  
**Sent:** Wednesday, July 3, 2019 3:24 PM  
**To:** Diamond, Joshua; McDougall, Robert  
**Cc:** Gary Davis (gadavis@enviroattorney.com); Jamie Whitlock (jwhitlock@enviroattorney.com); David Silver (DSilver@barrsternberg.com)  
**Subject:** RE: Vermont's recent suits v. PFAS Manufacturers

Great. Will 10 am work? If so, I'll send an outlook invite.

---

**From:** Diamond, Joshua [mailto:Joshua.Diamond@vermont.gov]  
**Sent:** Wednesday, July 03, 2019 3:22 PM  
**To:** Emily J. Joselson  
**Subject:** RE: Vermont's recent suits v. PFAS Manufacturers

Yes, I have time on Friday.

Josh

Joshua R. Diamond, Deputy Attorney General  
Vermont Attorney General's Office  
109 State Street  
Montpelier, Vermont 05609  
802-828-3175  
[joshua.diamond@vermont.gov](mailto:joshua.diamond@vermont.gov)

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**Cc:** Gary Davis (gadavis@enviroattorney.com) <gadavis@enviroattorney.com>; Jamie Whitlock (jwhitlock@enviroattorney.com) <jwhitlock@enviroattorney.com>; David Silver (DSilver@barrsternberg.com) <DSilver@barrsternberg.com>  
**Subject:** Vermont's recent suits v. PFAS Manufacturers

Hi Josh and Rob:

Do you have time for a short phone conference on Friday; or, if not, on Monday? Thanks so much.

Emily J. Joselson, Esq.  
Langrock Sperry & Wool, LLP

PO Drawer 351  
Middlebury, VT 05753-0351  
Direct Phone: 802.989.7829  
Office Phone: 802.388.6356  
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[ejoselson@langrock.com](mailto:ejoselson@langrock.com)  
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## McDougall, Robert

---

**From:** Emily J. Joselson <EJoselson@langrock.com>  
**Sent:** Wednesday, July 3, 2019 3:29 PM  
**To:** Diamond, Joshua  
**Cc:** McDougall, Robert; Gary Davis (gadavis@enviroattorney.com); Jamie Whitlock (jwhitlock@enviroattorney.com)  
**Subject:** RE: Vermont's recent suits v. PFAS Manufacturers

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After 11:00 on my end.

Josh

Joshua R. Diamond, Deputy Attorney General  
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Montpelier, Vermont 05609  
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[joshua.diamond@vermont.gov](mailto:joshua.diamond@vermont.gov)

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**Emily J. Joselson, Esq.**  
**Langrock Sperry & Wool, LLP**  
PO Drawer 351  
Middlebury, VT 05753-0351  
Direct Phone: 802.989.7829  
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## McDougall, Robert

---

**From:** McDougall, Robert  
**Sent:** Friday, July 5, 2019 11:31 AM  
**To:** Emily J. Joselson; Diamond, Joshua  
**Cc:** Gary Davis (gadavis@enviroattorney.com); Jamie Whitlock (jwhitlock@enviroattorney.com)  
**Subject:** Re: Vermont's recent suits v. PFAS Manufacturers

Hi Emily: We are running 5 minutes late & will be joining the call at 11:35. Thanks

Rob

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---

**From:** Emily J. Joselson <EJoselson@langrock.com>  
**Sent:** Wednesday, July 3, 2019 3:28:31 PM  
**To:** Diamond, Joshua  
**Cc:** McDougall, Robert; Gary Davis (gadavis@enviroattorney.com); Jamie Whitlock (jwhitlock@enviroattorney.com)  
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**From:** Emily J. Joselson <[EJoselson@langrock.com](mailto:EJoselson@langrock.com)>  
**Sent:** Wednesday, July 3, 2019 3:22 PM  
**To:** Diamond, Joshua <[Joshua.Diamond@vermont.gov](mailto:Joshua.Diamond@vermont.gov)>; McDougall, Robert <[robert.mcdougall@vermont.gov](mailto:robert.mcdougall@vermont.gov)>  
**Cc:** Gary Davis ([gadavis@enviroattorney.com](mailto:gadavis@enviroattorney.com)) <[gadavis@enviroattorney.com](mailto:gadavis@enviroattorney.com)>; Jamie Whitlock ([jwhitlock@enviroattorney.com](mailto:jwhitlock@enviroattorney.com)) <[jwhitlock@enviroattorney.com](mailto:jwhitlock@enviroattorney.com)>; David Silver ([DSilver@barrsternberg.com](mailto:DSilver@barrsternberg.com)) <[DSilver@barrsternberg.com](mailto:DSilver@barrsternberg.com)>  
**Subject:** Vermont's recent suits v. PFAS Manufacturers

Hi Josh and Rob:

Do you have time for a short phone conference on Friday; or, if not, on Monday? Thanks so much.

**Emily J. Joselson, Esq.**  
**Langrock Sperry & Wool, LLP**  
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## McDougall, Robert

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**From:** Bereket Tesfu <btesfu@naag.org>  
**Sent:** Wednesday, July 10, 2019 2:33 PM  
**Subject:** REMINDER: \*JULY 11\* NAAG national environmental conference call  
**Attachments:** NAAG national environmental conference call

Hello, all. Our agenda for the call tomorrow is as follows:

- the draft advocacy letter to Congress regarding PFAS legislation
- the propriety of a common interest agreement for the group
- an update regarding NAAG-facilitated information sharing platforms/document repositories
- the *Atlantic Richfield Co. v Christian* case going before the U.S. Supreme Court
- the recent U.S. Department of Energy high-level radioactive waste (HLW) interpretation

Other topics can be addressed on the call, but I wanted to make you aware of these ahead of time.

If you have not yet added the call to your calendar, you can click on the attachment to this e-mail to add it to your calendar. Please see the message below for the details about July's call, including how to access it.

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Greetings! As you may recall, NAAG's monthly national environmental conference call typically occurs on the first Thursday of every month; however, due to the **4<sup>th</sup> of July holiday**, July's monthly national environmental conference call will take place the following week on **July 11, 2019, at 1:00 p.m. (ET)**.

June's regularly-scheduled conference call (June 6) focused primarily on the **PFAS/PFOA** issue, as the **EPA** had recently released their draft interim guidance for addressing groundwater contamination associated with PFOA/PFOS as part of their **PFAS Action Plan**. About **30 states** were represented on that call and were able to exchange information and learn more about the now-concluded public comment period for the draft guidance. The discussion was compelling enough that a number of states decided to convene the following day for a supplemental national conference call to further discuss that issue!

The agenda for the next call is in the works. **I invite any of you to send me agenda items to address on the next conference call**, whether it be environmental SCOTUS litigation on the horizon or any other trending topics of interest.

To access the conference call on July 11, call in to [REDACTED] and use the **pass code** [REDACTED]. *The conference call will open with a roll call of states.* Once the substantive discussions begin, we ask that participants identify themselves by name and state so we can know who's speaking.

***\*\*We kindly ask that this invitation or any information about this call not be forwarded to or shared with anyone beyond the attorney general community. This request is to ensure that those who participate on this call are only those who work on environmental matters for their respective attorney general offices. This conference call is not for industry, the press, or the general public.\*\****

We look forward to you joining us on July 11.

Bereket Tesfu  
*Program Counsel*

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**McDougall, Robert**

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**From:** Bereket Tesfu <btesfu@naag.org>  
**Sent:** Thursday, June 20, 2019 2:28 PM  
**To:** Bereket Tesfu  
**Subject:** NAAG national environmental conference call



## McDougall, Robert

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**Subject:** NAAG national environmental conference call - 1 PM (ET)  
**Location:** teleconference

**Start:** Thu 7/11/2019 1:00 PM  
**End:** Thu 7/11/2019 2:00 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Organizer:** Bereket Tesfu

**\*\*UPDATE\*\***

Greetings! Due to the **4<sup>th</sup> of July holiday**, July's monthly national environmental conference call will take place the following week on **July 11, 2019, at 1:00 p.m. (ET)**.

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The agenda for the next call is in the works. **I invite any of you to send me agenda items to address on the next conference call**, whether it be environmental SCOTUS litigation on the horizon or any other trending topics of interest.

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We look forward to you joining us on July 11.



## McDougall, Robert

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**From:** Bereket Tesfu <btesfu@naag.org>  
**Sent:** Wednesday, July 31, 2019 9:54 PM  
**Subject:** RE: \*AUGUST 1\* NAAG national environmental conference call  
**Attachments:** Multistate PFAS Legislative Letter\_7.30.19\_FINAL SUBMITTED LETTER.pdf

Just a reminder, the August call is scheduled for **tomorrow (Thursday, August 1) at 1:00 p.m. (ET)**.

Attached to this e-mail is the letter that a coalition of states has sent to Congress concerning pending PFAS legislation. The drafting of this letter was the chief topic of last month's call. The submitted letter (and associated issues) can be a discussion item for tomorrow.

I also hope to have a brief update on possible NAAG-facilitated amicus activity related to *Atlantic Richfield Co. v Christian*, a significant environmental case going before the U.S. Supreme Court this coming term.

As indicated before, callers are invited at any time to raise topics of concern to the environmental attorney general community, especially emerging or trending topics. This is an opportunity to interface in a consistent forum for the facilitation of possible constructive feedback and/or collaboration in service of your respective states and territories.

Bereket Tesfu  
*Program Counsel*

### **National Attorneys General Training & Research Institute**

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**From:** Bereket Tesfu  
**Sent:** Wednesday, July 24, 2019 9:46 AM  
**To:** aarmstrong@atg.state.il.us; Aaron Love <Aaron.Love@law.njoag.gov>; abaker@mde.state.md.us; AHoffman@riag.ri.gov; ajohnston@attorneygeneral.gov; allen.brooks@doj.nh.gov; amy.beatie@coag.gov; angela.sierra@doj.ca.gov; Barry.Turner@ag.tn.gov; beth.mullin@dc.gov; bill.sherman@atg.wa.gov;

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**Subject:** \*AUGUST 1\* NAAG national environmental conference call

Greetings! Next month's NAAG national environmental conference call will take place on **Thursday, August 1, 2019, at 1:00 p.m. (ET)**. I have attached to this-email a calendar invite to add to your calendar.

A brief summary of the last call (July 11) can be found at the bottom of this e-mail. (An explanation for the other attachments to this- e-mail can be found in that summary.)

The agenda for the next call is in the works. **I invite any of you to send me agenda items to address on the next conference call.**

To access the conference call on August 1, call in to [REDACTED] and use the **pass code** [REDACTED]. *The conference call will open with a roll call of states.* Once the substantive discussions begin, we ask that participants identify themselves by name and state so we can know who's speaking.

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*those who participate on this call are only those who work on environmental matters for their respective attorney general offices. This conference call is not for industry, the press, or the general public.\*\**

We look forward to you joining us on August 1.

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A brief summary of the July 11 call can be found below.

- The draft advocacy letter to Congress regarding PFAS legislation was discussed in depth and is still a work in progress. There has apparently been a group working on this offline with Matthew Sinkman of New York as the facilitator. The call seemed to provide an opportunity for folks to actually be live in one “place” at one time to explore the topic rather than trying to do it over e-mail or in smaller calls. During and after the call, I received e-mails from additional states requesting a working copy of the draft letter. As I have never been privy to the actual letter, I referred them to Matthew at [matthew.sinkman@ag.ny.gov](mailto:matthew.sinkman@ag.ny.gov) for the most updated information on it.
- The propriety of a common interest agreement for the PFAS group was very briefly discussed, as some have felt there may be a need to have communications protected in the course of collaboration. Again, it was only very briefly raised. I got the sense that this group probably has been in talks offline, which is all the more reason to reach out to Matthew and get plugged into whatever they are doing offline so as to be in the know on the details.
- I provided an update regarding NAAG-facilitated information sharing platforms/document repositories. The current status is that NAAG is in the process of re-branding and developing a completely new website. While we don’t currently have the resources to provide a platform like Everlaw, we expect that we will be able to host a platform for specific communities (like environmental generally or PFAS specifically) with secure access limited to those specific communities in the near term (within months). There will be continuing updates on this going forward.
- The *Atlantic Richfield Co. v Christian* case going before the U.S. Supreme Court was discussed with a briefing by Rick Engel from New Jersey. There is a prospect of multi-state amicus activity of some sort, possibly facilitated by NAAG. I hope to have confirmation soon from the NAAG Center for Supreme Court Advocacy on this. If you want to be kept in the loop on that, please let me know.
- Also addressed was the purpose of the calls and the mail group. Some had the impression that it was strictly limited to PFAS issues or that it should be. I indicated that I am the only person here at NAAG who works on the energy and

environment portfolio (among many other tasks), and I would be spreading myself too thin if I had to facilitate multiple monthly conference calls and duplication of other time-intensive features for each and every topic that arises, therefore, addressing all of it in one place made more sense to me. Also, my feeling is that the environmental AG community may appreciate having a forum where more than one topic is addressed and where the states can collaborate, where advantageous, on other evolving or emerging issues. The compromise I proposed with respect to the calls is that the beginning of the calls can be devoted strictly to PFAS so that once those issues have been addressed on the call, those interested only in PFAS can depart from the call. That seemed to satisfy those who raised this concern. In the future, if more project-like issues arise, we can look at splitting up the calls.

- Finally, we briefly discussed the recent U.S. Department of Energy high-level radioactive waste (HLW) interpretation, and I encouraged any interested callers to please join the Energy Communities Alliance (ECA)-facilitated webinar on the topic held July 17. While the webinar was not recorded, I have since received the slide presentation from the webinar and an accompanying marked up PDF of the Federal Register Notice that Mark Senderling referenced during the presentation. **You can find these attached to this e-mail.**

Bereket Tesfu  
*Program Counsel*

**National Attorneys General Training & Research Institute**

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**ATTORNEYS GENERAL OF NEW YORK, CALIFORNIA, CONNECTICUT,  
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NEW JERSEY, NEW MEXICO, OREGON, RHODE ISLAND, VIRGINIA,  
WASHINGTON, AND WISCONSIN**

July 30, 2019

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
317 Russell Senate Office Building  
Washington, D.C. 20510

Honorable Charles E. Schumer  
Minority Leader  
United States Senate  
322 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
1236 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Kevin McCarthy  
Minority Leader  
United States House of Representatives  
2468 Rayburn House Office Building  
Washington, D.C. 20515

Re: PFAS Legislation

Dear Majority Leader McConnell, Minority Leader Schumer, Speaker Pelosi, and Minority Leader McCarthy:

As the United States Congress moves forward to address the threat to human health and the environment posed by the class of chemical compounds known as poly- and per-fluoroalkyl substances ("PFAS"), we write to urge Congress to ensure that some of the most urgent legislative needs – based on our experiences in our respective jurisdictions – are addressed.

PFAS have been used to produce countless products since the 1940s, including textiles with Scotchgard; Teflon products, including non-stick cookware; and food packaging. PFAS have also been used for decades as ingredients in firefighting foam, which has been used across

the country, including by the U.S. military and local fire departments. While PFAS are entirely human-made, they are estimated to be detectable in the blood stream of approximately 99% of the U.S. population. PFAS are known as “forever chemicals” because they resist degradation in the environment. PFAS also bioaccumulate – and are toxic – to humans and animals. Although scientific knowledge regarding PFAS is still developing, PFAS are linked to serious adverse health effects in humans and animals. The two most studied types of PFAS are known by the acronyms PFOA and PFOS. Human health effects associated with exposure to PFOA include kidney and testicular cancer, thyroid disease, liver damage, and preeclampsia; exposure to PFOS is associated with immune system effects, changes in liver enzymes and thyroid hormones, and other conditions.<sup>1</sup>

Many of the signatories to this letter face substantial PFAS issues in their jurisdictions, while others are just beginning to investigate the extent of PFAS contamination in their States. In jurisdictions that have already identified significant PFAS contamination within their borders, we are spending tens of millions of dollars to address contamination in public drinking water sources and to investigate numerous areas of potential contamination across our communities and to prioritize responses to such contamination. Contaminated sites in our jurisdictions include but are not limited to military bases where firefighting foam was used, firefighting training centers, civilian airports, and industrial facilities.

Although eventually Congress will likely need to address the entire PFAS “lifecycle” – production, use, exposure, cleanup, and disposal – we applaud the Senate and the House of Representatives for advancing legislation that address particular issues associated with PFAS contamination. As Congress moves to reach agreement on final legislation, the experiences of our States in responding to the dangers of PFAS point to several immediate legislative needs. For the reasons set forth below, we urge Congress to support the following necessary first steps in addressing the problems posed by PFAS. Any legislation, of course, should not impair the existing rights of States to pursue appropriate remedies under existing law.

### **CERCLA Designation**

Designate certain PFAS as “hazardous substances” under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”).<sup>2</sup> This designation should include but not be limited to PFOA, PFOS, and “GenX” PFAS. Additionally, the Environmental Protection Agency (“EPA”) should be directed to immediately study other PFAS and to designate all or some of the substances in the PFAS class of chemical compounds as hazardous substances under CERCLA. Such designation will help promote cleanup of some of the worst contaminated sites in the country that pose substantial threats to human health and/or the environment, including sites currently or formerly owned or operated by the U.S. Department of Defense (“DOD”). To date, DOD has identified over 400 federal facilities around the country with known or suspected PFAS contamination from firefighting foam.<sup>3</sup> DOD has resisted cleanup of federal facilities around the country, however, on the basis that PFAS are not

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<sup>1</sup> See, e.g., C8 Science Panel Website, <http://www.c8sciencepanel.org/>.

<sup>2</sup> 42 U.S.C. §§ 9601-9675.

<sup>3</sup> See U.S. Gov’t Accountability Office, GAO-18-700T, *Status of DOD Efforts to Address Drinking Water Contamination Used in Firefighting Foam* (2018), available at [www.gao.gov/products/GAO-18-700T](http://www.gao.gov/products/GAO-18-700T).

hazardous substances under CERCLA or otherwise federally regulated. Because CERCLA applies to facilities owned or operated by the federal government,<sup>4</sup> a designation of certain PFAS as hazardous substances under CERCLA would promote the appropriate cleanup of these sites. A designation under CERCLA would also promote cleanup of so-called “orphan” sites where responsible parties cannot be identified or located, or they fail to act. Contaminated sites that are subject to CERCLA would be cleaned up in a manner consistent with CERCLA’s well-established procedures and protocols.<sup>5</sup> Legislative carve-outs under CERCLA for certain other types of facilities could be provided, as appropriate.

CERCLA also provides reporting requirements for releases of hazardous substances over certain thresholds, and that reporting will facilitate investigations and potential cleanups of federal facilities and other sites across the country.<sup>6</sup> EPA should also be directed to develop appropriate analytical methodologies for testing for PFAS in various environmental media.

#### **Inclusion in the Toxic Release Inventory (“TRI”) Maintained by EPA**

Add the entire class of PFAS to EPA’s TRI.<sup>7</sup> This would provide information about new potential sources and areas of contamination. The thresholds for reporting releases of PFAS to the TRI should be set at a very low level, to account for the fact that PFAS may be toxic in very low concentrations.

#### **Sampling and Survey of PFAS Contamination by the U.S. Geological Survey (“USGS”)**

Direct the USGS to conduct a nationwide sampling effort and survey of human and environmental exposure to PFAS, with an emphasis on drinking water, to determine the scope of PFAS contamination. This information will assist all stakeholders in prioritizing areas that require further response and will complement the inclusion of PFAS on EPA’s TRI. Our respective States’ jurisdictional agencies stand ready to assist the federal government in identifying the locations that should be the highest priority for investigation.

#### **Funding for Communities’ Response to PFAS Contamination**

Provide funding for remediation of public water systems, with a focus on environmental justice and other disadvantaged communities. Many public water providers do not have sufficient funding to address PFAS contamination, and even when they may in the first instance, raising water rates to recoup those costs present serious water affordability issues. Funding should also be made available to address potential contamination of private drinking water sources.

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<sup>4</sup> See 42 U.S.C. §§ 9601(21), 9620.

<sup>5</sup> See 40 C.F.R. Part 300.

<sup>6</sup> See 42 U.S.C. § 9603; 40 C.F.R. Part 302.4.

<sup>7</sup> See 42 U.S.C. § 11023.

**Prohibit the Use and Storage of Firefighting Foam Containing PFAS at U.S. Military Bases and Other Federal Facilities**

Prohibit the use and storage of firefighting foam containing PFAS at United States military bases and other federal facilities as quickly as possible, and immediately require protective measures when firefighting foam is used. Aqueous film-forming foam, or AFFF, is directly sprayed on or near the ground when it is used, and it is the source of PFAS at some of the worst contaminated areas in the nation, including at numerous military sites. Some of our jurisdictions have been forced to spend tens of millions of dollars to provide vulnerable communities near military bases with uncontaminated water and filtration systems. While AFFF may be discharged into the environment in responding to emergencies (or may be discharged accidentally), the vast majority of AFFF is used for firefighting training. Congress should require that training foams that do not contain PFAS be used instead of AFFF containing PFAS, and that barriers or other measures be used in areas in which foam is discharged to prevent potential contamination of the environment.

**Medical Screening**

Provide for medical screening for PFAS exposure for appropriate personnel and members of the public who may have been exposed to PFAS, including but not limited to firefighting personnel. Our citizens deserve to know about potential health threats, particularly those incurred on the job.

\* \* \*

Public understanding about the serious risks that PFAS contamination poses to human health and the environment is growing. Without federal legislative action to assist States and communities that are responding to this burgeoning threat, the public may lose confidence in the safety of its drinking water sources, consumer products, and other routes of exposure to dangerous levels of PFAS. We applaud the Senate and the House of Representatives for recognizing the dangers of PFAS and advancing legislation to address the resulting public health concerns and mounting State and local response costs. We urge Congress to continue these efforts by supporting the initial legislative needs highlighted above as Congress moves to reach agreement on final legislation addressing PFAS contamination.

Thank you for your time and consideration of these urgent matters.

Sincerely,




LETITIA JAMES  
Attorney General of New York



XAVIER BECERRA  
Attorney General of California

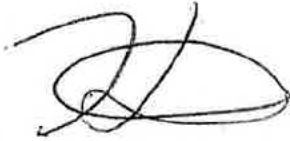




WILLIAM TONG  
Attorney General of Connecticut




KATHLEEN JENNINGS  
Attorney General of Delaware



KARL A. RACINE  
Attorney General of District of Columbia



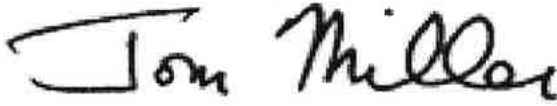
LEEVIN CAMACHO  
Attorney General of Guam



CLARE E. CONNORS  
Attorney General of Hawai'i



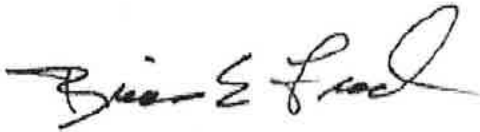
KWAME RAOUL  
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TOM MILLER  
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AARON M. FREY  
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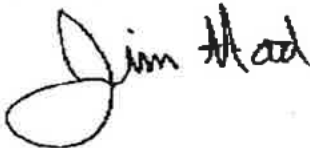
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Attorney General of Michigan



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Attorney General of Minnesota



JIM HOOD  
Attorney General of Mississippi



GURBIR S. GREWAL  
Attorney General of New Jersey



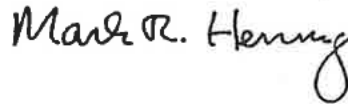
HECTOR BALDERAS  
Attorney General of New Mexico



ELLEN ROSENBLUM  
Attorney General of Oregon



PETER F. NERONHA  
Attorney General of Rhode Island



MARK R. HERRING  
Attorney General of Virginia



BOB FERGUSON  
Attorney General of Washington



JOSHUA L. KAUL  
Attorney General of Wisconsin

Cc: Sen. John Barrasso, Chairman, Senate Committee on Environment and Public Works  
Sen. Thomas R. Carper, Ranking Member, Senate Committee on Environment and Public Works  
Rep. Frank Pallone, Jr., Chairman, House Committee on Energy and Commerce  
Rep. Greg Walden, Ranking Member, House Committee on Energy and Commerce  
Sen. James Inhofe, Chairman, Senate Committee on Armed Services  
Sen. Jack Reed, Ranking Member, Senate Committee on Armed Services  
Rep. Adam Smith, Chairman, House Committee on Armed Services  
Rep. Mac Thornberry, Ranking Member, House Committee on Armed Services  
Rep. Raul M. Grijalva, Chairman, House Committee on Natural Resources  
Rep. Rob Bishop, Ranking Member, House Committee on Natural Resources  
Rep. Peter A. DeFazio, Chairman, House Committee on Transportation and Infrastructure  
Rep. Sam Graves, Ranking Member, House Committee on Transportation and Infrastructure  
Rep. Brian Fitzpatrick, Chairman, Congressional PFAS Task Force  
Rep. Dan Kildee, Chairman, Congressional PFAS Task Force

## McDougall, Robert

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**From:** Bereket Tesfu <btesfu@naag.org>  
**Sent:** Wednesday, July 24, 2019 9:46 AM  
**To:** aarmstrong@atg.state.il.us; Aaron Love; abaker@mde.state.md.us; AHoffman@riag.ri.gov; ajohnston@attorneygeneral.gov; allen.brooks@doj.nh.gov; amy.beatie@coag.gov; angela.sierra@doj.ca.gov; Barry.Turner@ag.tn.gov; beth.mullin@dc.gov; bill.sherman@atg.wa.gov; brent.bolea1@maryland.gov; christophe.courchesne@state.ma.us; CKennedy@atg.state.il.us; ckhoury@nmag.gov; clayton.eubanks@oag.ok.gov; craiganderson@agutah.gov; curtis.cox@azag.gov; dale.vitale@ohioattorneygeneral.gov; DAnderson@oag.state.va.us; daniel.olivas@doj.ca.gov; Dara.Derryberry@oag.ok.gov; darrell.early@ag.idaho.gov; david.apy@law.njoag.gov; david.e.clayton@state.ma.us; david.kreutzer@coag.gov; david.steward@ag.iowa.gov; DHirschman@ncdoj.gov; Duane Harlow; dwalsh@law.ga.gov; Emily.Tapocsi@ohioattorneygeneral.gov; Erik Petersen; ewallace@atg.state.il.us; Fitz, Andy (ATG); Greg D. Ott; gregg.j.kinkley@hawaii.gov; hussain.karim@dc.gov; James, Jason; james.canaday@ag.state.mn.us; james.kaste@wyo.gov; jamie.ewing@arkansasag.gov; jason.w.jones@doj.state.or.us; Jeff.Chanay@ag.ks.gov; jefferson.garn@atg.in.gov; Jennifer Lewis; jennifer.fradel@law.njoag.gov; jennifer.robbs@coag.gov; jennifer.wazenski@maryland.gov; Jerry.goad@coag.gov; Jill.Lacedonia@ct.gov; John.Saurenman@doj.ca.gov; justin.lavene@nebraska.gov; karmstrong@ag.nv.gov; katherine.tierney@maine.gov; Kellie.Billings-Ray@oag.texas.gov; Kelly Shaw; Kugelman, Paul; Larissa.etwaroo@dc.gov; laura.watson@atg.wa.gov; lditka@attorneygeneral.gov; lisa.burianek@ag.ny.gov; maiolson@nd.gov; manningp@michigan.gov; mary.freeley@mass.gov; mary.sauer@maine.gov; masagsve@nd.gov; matthew.levine@ct.gov; mausborn@ago.state.al.us; mdunn@atg.state.il.us; Melissa.Hoffer@state.ma.us; michael.myers@ag.ny.gov; Minard, Anne; monica.wagner@ag.ny.gov; motlbj@doj.state.wi.us; mwood@ago.state.ms.us; O'Laughlin, Ellen; omartin@ago.state.al.us; paul.garrahan@doj.state.or.us; phunter@scag.gov; potterkc@doj.state.wi.us; priscilla.hubenak@texasattorneygeneral.gov; ralph.durstein@delaware.gov; rebecca.eggleston@azag.gov; rich.williams@state.sd.us; Robert Lundin; robert.byrne@doj.ca.gov; McDougall, Robert; rtambling@ago.state.al.us; sally.magnani@doj.ca.gov; Sarah Morrison; sarah.tacker@arkansasag.gov; Schuetze, Cheryl; Scott.Steinbrecher@coag.gov; Segal, Joshua; Sinkman, Matthew; Spiegel, Norman; Srolovic, Lemuel; Stephany.lively@oag.ok.gov; steve.mulder@alaska.gov; steven.talson@maryland.gov; Synk, Polly (AG); Tatiana Gaur; thomas.chenal@azag.gov; Thomas.young@atg.wa.gov; tim.duggan@ago.mo.gov; TJedele@riag.ri.gov; tmccloskey@paoca.org; tom.roan@coag.gov; Washburn, Peter; William Grantham  
**Subject:** \*AUGUST 1\* NAAG national environmental conference call  
**Attachments:** HLW Interpretation - ECA.pdf; Highlighted Supplemental FRN\_EM42\_07\_16\_2019.pdf; NAAG national environmental conference call

Greetings! Next month's NAAG national environmental conference call will take place on **Thursday, August 1, 2019, at 1:00 p.m. (ET)**. I have attached to this-email a calendar invite to add to your calendar.

A brief summary of the last call (July 11) can be found at the bottom of this e-mail. (An explanation for the other attachments to this- e-mail can be found in that summary.)

The agenda for the next call is in the works. **I invite any of you to send me agenda items to address on the next conference call.**

To access the conference call on August 1, call in to [REDACTED] and use the **pass code** [REDACTED]. *The conference call will open with a roll call of states.* Once the substantive discussions begin, we ask that participants identify themselves by name and state so we can know who's speaking.

***\*\*We kindly ask that this invitation or any information about this call not be forwarded to or shared with anyone beyond the attorney general community. This request is to ensure that those who participate on this call are only those who work on environmental matters for their respective attorney general offices. This conference call is not for industry, the press, or the general public.\*\****

We look forward to you joining us on August 1.

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A brief summary of the July 11 call can be found below.

- The draft advocacy letter to Congress regarding PFAS legislation was discussed in depth and is still a work in progress. There has apparently been a group working on this offline with Matthew Sinkman of New York as the facilitator. The call seemed to provide an opportunity for folks to actually be live in one "place" at one time to explore the topic rather than trying to do it over e-mail or in smaller calls. During and after the call, I received e-mails from additional states requesting a working copy of the draft letter. As I have never been privy to the actual letter, I referred them to Matthew at [matthew.sinkman@ag.ny.gov](mailto:matthew.sinkman@ag.ny.gov) for the most updated information on it.
- The propriety of a common interest agreement for the PFAS group was very briefly discussed, as some have felt there may be a need to have communications protected in the course of collaboration. Again, it was only very briefly raised. I got the sense that this group probably has been in talks offline, which is all the more reason to reach out to Matthew and get plugged into whatever they are doing offline so as to be in the know on the details.
- I provided an update regarding NAAG-facilitated information sharing platforms/document repositories. The current status is that NAAG is in the process of re-branding and developing a completely new website. While we don't

currently have the resources to provide a platform like Everlaw, we expect that we will be able to host a platform for specific communities (like environmental generally or PFAS specifically) with secure access limited to those specific communities in the near term (within months). There will be continuing updates on this going forward.

- The *Atlantic Richfield Co. v Christian* case going before the U.S. Supreme Court was discussed with a briefing by Rick Engel from New Jersey. There is a prospect of multi-state amicus activity of some sort, possibly facilitated by NAAG. I hope to have confirmation soon from the NAAG Center for Supreme Court Advocacy on this. If you want to be kept in the loop on that, please let me know.
- Also addressed was the purpose of the calls and the mail group. Some had the impression that it was strictly limited to PFAS issues or that it should be. I indicated that I am the only person here at NAAG who works on the energy and environment portfolio (among many other tasks), and I would be spreading myself too thin if I had to facilitate multiple monthly conference calls and duplication of other time-intensive features for each and every topic that arises, therefore, addressing all of it in one place made more sense to me. Also, my feeling is that the environmental AG community may appreciate having a forum where more than one topic is addressed and where the states can collaborate, where advantageous, on other evolving or emerging issues. The compromise I proposed with respect to the calls is that the beginning of the calls can be devoted strictly to PFAS so that once those issues have been addressed on the call, those interested only in PFAS can depart from the call. That seemed to satisfy those who raised this concern. In the future, if more project-like issues arise, we can look at splitting up the calls.
- Finally, we briefly discussed the recent U.S. Department of Energy high-level radioactive waste (HLW) interpretation, and I encouraged any interested callers to please join the Energy Communities Alliance (ECA)-facilitated webinar on the topic held July 17. While the webinar was not recorded, I have since received the slide presentation from the webinar and an accompanying marked up PDF of the Federal Register Notice that Mark Senderling referenced during the presentation. **You can find these attached to this e-mail.**

Bereket Tesfu  
*Program Counsel*

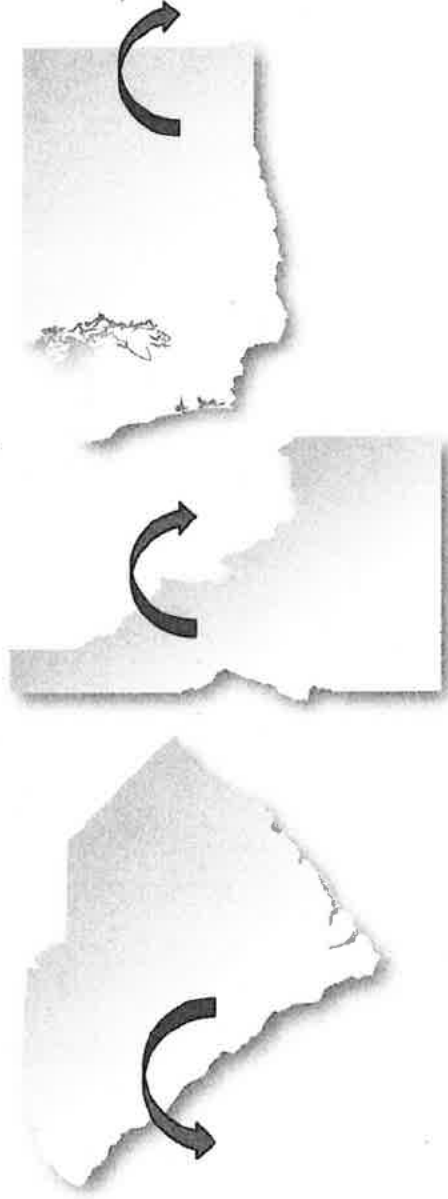
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# DOE High-Level Radioactive Waste (HLW) Interpretation



ECA—July 17, 2019

# Where Did This Waste Come From?

For national defense during the Cold War, the U.S. reprocessed used nuclear fuel rods to isolate key radioactive isotopes for our strategic weapons stockpile.

That reprocessing created varied radioactive waste byproducts like sludge, slurry, liquid, and debris that remain stored at DOE sites in South Carolina, Idaho, and Washington.

